

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

D'ANGELO MARQUEZ JENKINS,

Petitioner

v.

DAVID OSBORNE, WARDEN

Respondent.

No. 3:12-0049

Judge Haynes

QWD su
This motion is
GRANTED. Petitioner
has 30 days to file a
response.
Will [signature]

RESPONDENT'S MOTION TO CONSTRUE ANSWER AS MOTION FOR SUMMARY
JUDGMENT

The Respondent hereby moves that this Court construe his March 1, 2012 answer to the Petitioner's petition (Doc. No. 12) as a motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure. As grounds therefore, the Respondent states that the amended answer and the contemporaneously filed state court record (Doc. No. 13) establish the material undisputed facts and show that the Respondent is entitled to judgment as a matter of law.

Accordingly, the Respondent respectfully requests that the Court treat his amended answer as a motion for summary judgment, excuse the Respondent from filing a separate statement of material facts, allow the Petitioner to respond to the answer as if it were a motion for summary judgment under Rule 56, and grant judgment in favor of the Respondent.